

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**FUNCTION MEDIA, L.L.C.**

**Plaintiff,**

**vs.**

**GOOGLE, INC. AND YAHOO, INC.**

**Defendants.**

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**Civil Action No. 2007-CV-279**

**JURY TRIAL DEMANDED**

**PLAINTIFF'S RESPONSE TO GOOGLE'S MOTION IN *LIMINE*  
NO. FOUR: MOTION TO PRECLUDE EVIDENCE AND ARGUMENT  
REGARDING FUNCTION MEDIA'S ALLEGATIONS OF WILLFUL INFRINGEMENT**

FM refers this Court to FM's response to Google's Motion for Summary Judgment on Willfulness. This Court has dismissed from this case the asserted claims of the '045 patent, and FM agrees not to pursue willfulness allegations as to the remaining '025 and '059 patents. Accordingly, this Court should deny this motion *in limine* as moot.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that on November 3, 2009, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, using the electronic filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

/s/ Joseph S. Grinstein \_\_\_\_\_  
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